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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/319,842 08/09/99 WESTERMANN

K 686

STRIKER STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON NY 11743

PM82/0921

EXAMINER

GARCIA, E

ART. UNIT

PAPER NUMBER

3629

DATE MAILED:

09/21/01

FINAL ACTION

Nov 21, 2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/319,842

Applicant(s)

WESTERMANN ET AL.

Examiner

Ernesto Garcia

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 1999 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the additional lateral strut disposed at [the] ends of the side walls (claims 6) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Applicant is reminded that applicant's drawings show two side walls each one having numerous ends.

Claim Objections

Claims 1, 3, and 6-8 are objected to because of the following informalities:

as to claim 1, reference 70 in lines 6 and 8 has been referred to describe both a detent means and lateral struts, the terms "the" in line 8 should be --a--, the second term "the" in lines 8 and 10 should be deleted, and the term --a-- should be added between "of wiper" in line 11;

as to claim 3, the limitation "smaller" in lines 4, 5 and 8 should be --small--;

as to claim 6, the first limitation "the" in lines 4 and 5 should be removed, and the second limitation "the" in line 6 should be --a--;

as to claim 7, the first term "the" in line 5 should be --an--; and

as to claim 8, the limitation "struts" in line 3 should be --strut--, and the terms --at least one-- should be added between "the detent". Appropriate correction is required

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the limitation "a number of lateral struts extend in the longitudinal direction on both sides of the hub" is unclear. It appears that the lateral struts are projecting from sides of the hub instead of the wall as shown in the drawings.

Regarding claim 2, the limitation "the clearance" in line 2 is unclear whether it refers to at least one of the clearances mentioned in claim 1 or this is a clearance different from that of the clearances of claim 1. Furthermore the word "means" is preceded by the word(s) "of beads" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the

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equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Regarding claims 3 and 4, the limitation "and a first lateral strut is disposed at a distance" is indefinite since the location has no relation as to where the lateral strut is disposed. Is the strut disposed on the hub, wall, the detent means, or the lateral struts?

Claim 4 recites the limitation "the first lateral strut" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the second lateral strut" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "the ends" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 7, the term "the inside" is a relative term, which renders the claim indefinite. The term "the inside" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. This limitation is unclear since the location of the detent projection could be inside the hub or inside the clearances.

Regarding claim 8, the phrase "to such " renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3-8 are rejected under 35 U.S.C. 102(b) as being anticipated by the European patent 655, 373.

Regarding claim 1, as best understood, the European patent '373 discloses in Figure 1 a bearing element **10** comprising a hub **32**, two side walls **14, 16** (Fig. 1), detent means **48**, and a number of lateral struts **44, 54, 58**. The hub **32** is open over part of its circumference. The two side walls **14, 16** are connected by way of the hub **32**. The number of lateral struts **44, 54, 58** is on sides of the hub. Furthermore, the European patent discloses in Figure 1 clearances **14, 24** between guiding surfaces **16** of the side walls **14, 16** are different sizes on opposite ends.

Regarding claim 3, as best understood, an outer contour of the hub 32 has a contact face 36 with a small bending radius 30 and a smaller --small-- material thickness. Furthermore, the bearing element has a first lateral strut 54 (Fig. 1).

Regarding claim 4, as best understood, a first lateral strut 54 has a contact face 52 with a larger bending radius and a larger material thickness (Fig. 1). Figure 1 shows a second lateral strut 58 is disposed at a distance in the longitudinal direction that corresponds to the larger material thickness.

Regarding claim 5, the second lateral strut 58 has a flattened contact face that is oriented towards the hub 32 (Fig. 1). Furthermore, claim 5 recites the limitation "the second lateral strut" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 6, the European patent '373 discloses an additional lateral strut 44 disposed at ends of the side walls 12.

Regarding claim 7, as best understood, on the side walls 12 starting from the additional lateral strut 44 (Fig. 1) at least one detent 48 projection is disposed on the side walls.

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Regarding claim 8, the European patent '373 teaches the --at least one-- detent projection 48 is disposed offset toward the hub 32, in relation to the additional lateral strut, in the longitudinal direction.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over the European patent 655,373 in view of the French patent 2,631,300.

Regarding claim 2, as best understood, the European '373 patent fails to disclose beads reducing at least one of the clearances of the side walls. The French patent '300 discloses in Figure 2 beads 25 to reduce the clearance of the side walls. The French patent chooses to make clearances with beads to eliminate transverse clearance between an arm and a bearing. Therefore, as taught by the French patent, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the clearances from beads in order to eliminate transverse clearance between an arm and a bearing.

Response to Arguments

Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 703-308-8606. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on 703-308-1159. The fax number for the organization where this application or proceeding is assigned is 703-305-3597 for regular communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

Lynne H. Browne
Supervisory Patent Examiner
Technology Center 3620

E.G.

September 13, 2001